



General Assembly

January Session, 2007

Bill No. 1131

LCO No. 4095

04095_____

Referred to Committee on Planning and Development

Introduced by:

SEN. DELUCA, 32nd Dist.

REP. CAFERO, 142nd Dist.

AN ACT CONCERNING EMINENT DOMAIN.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (3) of subsection (c) of section 7-148 of the
2 general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective July 1, 2007, and applicable to property acquired on or after*
4 *said date*):

5 (3) (A) Take or acquire by gift, purchase, grant, including any grant
6 from the United States or the state, bequest or devise and hold,
7 condemn, lease, sell, manage, transfer, release and convey such real
8 and personal property or interest therein absolutely or in trust as the
9 purposes of the municipality or any public use or purpose, including
10 that of education, art, ornament, health, charity or amusement,
11 cemeteries, parks or gardens, or the erection or maintenance of statues,
12 monuments, buildings or other structures, [or the encouragement of
13 private commercial development,] require. Any lease of real or
14 personal property or any interest therein, either as lessee or lessor, may
15 be for such term or any extensions thereof and upon such other terms

16 and conditions as have been approved by the municipality, including
17 without limitation the power to bind itself to appropriate funds as
18 necessary to meet rent and other obligations as provided in any such
19 lease;

20 (B) Take real property for economic development purposes,
21 provided such taking has been approved by at least two-thirds of the
22 members of the legislative body of the municipality present and voting
23 and the legislative body has made a finding that (i) public benefits
24 resulting from the economic development project will outweigh any
25 private benefits; (ii) existing use of the real property cannot be feasibly
26 integrated into the overall development plan for the project; (iii)
27 acquisition by eminent domain is reasonably necessary to successfully
28 achieve the objectives of such development plan; (iv) the economic
29 development project will have public benefits that are not limited to
30 an increase in local tax revenues; and (v) on and after January 1, 2009,
31 the economic development project will conform to any responsible
32 growth criteria established pursuant to the provisions of the general
33 statutes or any regulations adopted thereunder. Real property taken
34 under the provisions of this subparagraph may be transferred to a
35 development agency as defined in section 8-187 or an implementing
36 agency as defined in section 32-222;

37 ~~[(B)]~~ (C) Provide for the proper administration of gifts, grants,
38 bequests and devises and meet such terms or conditions as are
39 prescribed by the grantor or donor and accepted by the municipality.

40 Sec. 2. Section 8-128 of the general statutes is repealed and the
41 following is substituted in lieu thereof (*Effective July 1, 2007, and*
42 *applicable to property acquired on or after said date*):

43 (a) Within a reasonable time after its approval of the redevelopment
44 plan as hereinbefore provided, the redevelopment agency may
45 proceed with the acquisition or rental of real property by purchase,
46 lease, exchange or gift. The redevelopment agency may acquire real
47 property by eminent domain with the approval of the legislative body

48 of the municipality and in accordance with the provisions of sections 8-
 49 129 to 8-133, inclusive, and this section. The legislative body in its
 50 approval of a project under section 8-127 shall specify the time within
 51 which real property is to be acquired. The time for acquisition may be
 52 extended by the legislative body in accordance with section 48-6, upon
 53 request of the redevelopment agency, provided the owner of the real
 54 property consents to such request. Real property may be acquired
 55 previous to the adoption or approval of the project area redevelopment
 56 plan, provided the property acquired shall be located within an area
 57 designated on the general plan as an appropriate redevelopment area
 58 or within an area whose boundaries are defined by the planning
 59 commission as an appropriate area for a redevelopment project, and
 60 provided such acquisition shall be authorized by the legislative body.
 61 The redevelopment agency may clear, repair, operate or insure such
 62 property while it is in its possession or make site improvements
 63 essential to preparation for its use in accordance with the
 64 redevelopment plan.

65 (b) If real property acquired by eminent domain on or after the
 66 effective date of this section is not used for the purpose for which it
 67 was acquired or for some other public use not later than five years
 68 after such acquisition, the person from whom the property was
 69 acquired or the heirs, successors or assigns of such person may apply
 70 to repurchase the property pursuant to the provisions of this
 71 subsection. The property shall be sold to the person making
 72 application for an amount not more than the amount of compensation
 73 paid to the person for such taking, plus the actual cost of any
 74 environmental cleanup performed after the taking, unless the
 75 legislative body of the municipality determines that retaining the
 76 property is in the public interest.

77 Sec. 3. Section 8-129 of the general statutes is repealed and the
 78 following is substituted in lieu thereof (*Effective July 1, 2007, and*
 79 *applicable to property acquired on or after said date*):

80 (a) (1) The redevelopment agency shall determine the compensation
81 to be paid to the persons entitled thereto for such real property. [and]

82 (2) With respect to property taken pursuant to subparagraph (B) of
83 subdivision (3) of subsection (c) of section 7-148, as amended by this
84 act, the amount of compensation shall be equal to one hundred
85 twenty-five per cent of the fair market value of the real property,
86 reduced by reasonably foreseeable environmental clean up costs, and
87 increased by reasonable attorney fees and costs. If there is an active
88 business on the property, upon a finding that the good will of the
89 business cannot be transferred, compensation shall be adjusted to
90 reflect lost good will. For purposes of this subsection, "good will"
91 means the benefits that accrue to a business from its location,
92 reputation for dependability, skill or quality and any other
93 circumstances resulting in probable retention of old or acquisition of
94 new patronage.

95 (b) The redevelopment agency shall file a statement of
96 compensation, containing a description of the property to be taken and
97 the names of all persons having a record interest therein and setting
98 forth the amount of such compensation, and a deposit as provided in
99 section 8-130, with the clerk of the superior court for the judicial
100 district in which the property affected is located. Upon filing such
101 statement of compensation and deposit, the redevelopment agency
102 shall forthwith cause to be recorded, in the office of the town clerk of
103 each town in which the property is located, a copy of such statement of
104 compensation, such recording to have the same effect and to be treated
105 the same as the recording of a lis pendens, and shall forthwith give
106 notice, as provided in this section, to each person appearing of record
107 as an owner of property affected thereby and to each person appearing
108 of record as a holder of any mortgage, lien, assessment or other
109 encumbrance on such property or interest therein [(a)] (1) in the case of
110 any such person found to be residing within this state, by causing a
111 copy of such notice, with a copy of such statement of compensation, to
112 be served upon each such person by a state marshal, constable or

113 indifferent person, in the manner set forth in section 52-57 for the
114 service of civil process, and [(b)] (2) in the case of any such person who
115 is a nonresident of this state at the time of the filing of such statement
116 of compensation and deposit or of any such person whose
117 whereabouts or existence is unknown, by mailing to each such person
118 a copy of such notice and of such statement of compensation, by
119 registered or certified mail, directed to his last-known address, and by
120 publishing such notice and such statement of compensation at least
121 twice in a newspaper published in the judicial district and having daily
122 or weekly circulation in the town in which such property is located.
123 Any such published notice shall state that it is notice to the widow or
124 widower, heirs, representatives and creditors of the person holding
125 such record interest, if such person is dead. If, after a reasonably
126 diligent search, no last-known address can be found for any interested
127 party, an affidavit stating such fact, and reciting the steps taken to
128 locate such address, shall be filed with the clerk of the superior court
129 and accepted in lieu of mailing to the last-known address. Not less
130 than twelve days or more than ninety days after such notice and such
131 statement of compensation have been so served or so mailed and first
132 published, the redevelopment agency shall file with the clerk of the
133 superior court a return of notice setting forth the notice given and,
134 upon receipt of such return of notice, such clerk shall, without any
135 delay or continuance of any kind, issue a certificate of taking setting
136 forth the fact of such taking, a description of all the property so taken
137 and the names of the owners and of all other persons having a record
138 interest therein. The redevelopment agency shall cause such certificate
139 of taking to be recorded in the office of the town clerk of each town in
140 which such property is located. Upon the recording of such certificate,
141 title to such property in fee simple shall vest in the municipality, and
142 the right to just compensation shall vest in the persons entitled thereto.
143 At any time after such certificate of taking has been so recorded, the
144 redevelopment agency may repair, operate or insure such property
145 and enter upon such property, and take any action that is proposed
146 with regard to such property by the project area redevelopment plan.

147 The notice referred to above shall state that [(1)] (A) not less than
 148 twelve days or more than ninety days after service or mailing and first
 149 publication thereof, the redevelopment agency shall file, with the clerk
 150 of the superior court for the judicial district in which such property is
 151 located, a return setting forth the notice given, [(2)] (B) upon receipt of
 152 such return, such clerk shall issue a certificate for recording in the
 153 office of the town clerk of each town in which such property is located,
 154 [(3)] (C) upon the recording of such certificate, title to such property
 155 shall vest in the municipality, the right to just compensation shall vest
 156 in the persons entitled thereto and the redevelopment agency may
 157 repair, operate or insure such property and enter upon such property
 158 and take any action that may be proposed with regard thereto by the
 159 project area redevelopment plan, and [(4)] (D) such notice shall bind
 160 the widow or widower, heirs, representatives and creditors of each
 161 person named therein who then or thereafter may be dead. When any
 162 redevelopment agency acting on behalf of any municipality has
 163 acquired or rented real property by purchase, lease, exchange or gift in
 164 accordance with the provisions of this section, or in exercising its right
 165 of eminent domain has filed a statement of compensation and deposit
 166 with the clerk of the superior court and has caused a certificate of
 167 taking to be recorded in the office of the town clerk of each town in
 168 which such property is located as provided in this section, any judge of
 169 such court may, upon application and proof of such acquisition or
 170 rental or such filing and deposit and such recording, order such clerk
 171 to issue an execution commanding a state marshal to put such
 172 municipality and the redevelopment agency, as its agent, into
 173 peaceable possession of the property so acquired, rented or
 174 condemned. The provisions of this section shall not be limited in any
 175 way by the provisions of chapter 832.

176 Sec. 4. Subsection (a) of section 8-193 of the general statutes is
 177 repealed and the following is substituted in lieu thereof (*Effective July*
 178 *1, 2007*):

179 (a) After approval of the development plan as provided in this

180 chapter, the development agency may proceed by purchase, lease,
181 exchange or gift with the acquisition or rental of real property within
182 the project area and real property and interests therein for rights-of-
183 way and other easements to and from the project area. [The
184 development agency may, with the approval of the legislative body,
185 and in the name of the municipality, acquire by eminent domain real
186 property located within the project area and real property and interests
187 therein for rights-of-way and other easements to and from the project
188 area, in the same manner that a redevelopment agency may acquire
189 real property under sections 8-128 to 8-133, inclusive, as if said sections
190 specifically applied to development agencies.] The development
191 agency may, with the approval of the legislative body and, of the
192 commissioner if any grants were made by the state under section 8-190
193 or 8-195 for such development project, and in the name of such
194 municipality, transfer by sale or lease at fair market value or fair rental
195 value, as the case may be, the whole or any part of the real property in
196 the project area to any person, in accordance with the project plan and
197 such disposition plans as may have been determined by the
198 commissioner.

199 Sec. 5. Section 8-268 of the general statutes is amended by adding
200 subsection (d) as follows (*Effective July 1, 2007, and applicable to property*
201 *acquired on or after said date*):

202 (NEW) (d) Notwithstanding the provisions of this section, in the
203 case of property taken pursuant to subparagraph (B) of subdivision (3)
204 of subsection (c) of section 7-148 of the general statutes, as amended by
205 this act, the head of the state agency shall make relocation payments
206 pursuant to the provisions of the federal Uniform Relocation
207 Assistance and Real Property Acquisition Policies Act of 1970, 42 USC
208 4601 et seq. and any subsequent amendments thereto and regulations
209 promulgated thereunder, if payments under said act would be greater
210 than payments under the provisions of this section.

211 Sec. 6. Subsection (g) of section 32-224 of the general statutes is

212 repealed and the following is substituted in lieu thereof (*Effective July*
213 *1, 2007*):

214 (g) After approval of the development plan pursuant to sections 32-
215 220 to 32-234, inclusive, the implementing agency may by purchase,
216 lease, exchange or gift acquire or rent real property necessary or
217 appropriate for the project as identified in the development plan and
218 real property and interests therein for rights-of-way and other
219 easements to and from the project area. [The implementing agency
220 may, with the approval of the legislative body of the municipality, and
221 in the name of the municipality, condemn in accordance with section
222 8-128 to 8-133, inclusive, any real property necessary or appropriate for
223 the project as identified in the development plan, including real
224 property and interests in land for rights-of-way and other easements to
225 and from the project area.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007, and applicable to property acquired on or after said date</i>	7-148(c)(3)
Sec. 2	<i>July 1, 2007, and applicable to property acquired on or after said date</i>	8-128
Sec. 3	<i>July 1, 2007, and applicable to property acquired on or after said date</i>	8-129
Sec. 4	<i>July 1, 2007</i>	8-193(a)
Sec. 5	<i>July 1, 2007, and applicable to property acquired on or after said date</i>	8-268
Sec. 6	<i>July 1, 2007</i>	32-224(g)

Statement of Purpose:

To implement the Governor's budget recommendations.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]